

**UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WISCONSIN**

**IN RE
Steven Theodore Rapraeger Steven T
Rapraeger and Kathleen Jane
Rapraeger Kathleen J Rapraeger fka
Kathleen Jane Kinder**

**Chapter: 13
Case No. 13-10869-cjf**

Debtors.

**NOTICE OF MOTION OF THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., AS TRUSTEE FOR GMACM HOME EQUITY LOAN TRUST
2006-HE3 TO VACATE ORDER DATED FEBRUARY 10, 2015 GRANTING
DEBTORS' MOTION TO SELL PURSUANT TO SECTION 363 OF THE
BANKRUPTCY CODE**

The Bank of New York Mellon Trust Company, N.A., as Trustee for GMACM Home Equity Loan Trust 2006-HE3, its successors and/or assignees, has filed papers with the court to vacate the order dated February 10, 2015 granting debtors' motion to sell pursuant to Section 363 of the Bankruptcy Code.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, within fourteen (14) days of the date

Drafted by:

Christopher C. Drout
Gray & Associates, L.L.P.
16345 W. Glendale Drive
New Berlin, WI 53151
Phone: (414) 224-8404
Fax: (414) 224-1279
Email: cdROUT@gray-law.com

Gray & Associates, L.L.P. is attempting to collect a debt and any information obtained will be used for that purpose. If you have previously received a discharge in a Chapter 7 bankruptcy case, this communication should not be construed as an attempt to hold you personally liable for the debt.

of this notice, you or your attorney must do the following:

File with the court a written objection to the motion and a request for a hearing with:

Clerk, U.S. Bankruptcy Court
U.S. Courthouse
500 S Barstow St
Eau Claire, WI 54701-3657

If you mail your request and objection to the court for filing, you must mail it early enough so the court receives it within 14 days of the date of this notice.

You must also mail copies of the written objection and request for a hearing to:

Christopher C. Drout
Gray & Associates, L.L.P.
16345 W. Glendale Drive
New Berlin, WI 53151

Mark Mathias
Chapter 7 Trustee
920 S. Farwell St.
Eau Claire, WI 54701

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated this 24th day of March, 2015.

GRAY & ASSOCIATES, L.L.P.
Attorneys for Movant

By: _____/S/_____
Christopher C. Drout
State Bar No. 1049882

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**MOTION OF MOTION OF THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., AS TRUSTEE FOR GMACM HOME EQUITY LOAN TRUST
2006-HE3 TO VACATE ORDER DATED FEBRUARY 10, 2015 GRANTING
DEBTORS' MOTION TO SELL PURSUANT TO SECTION 363 OF THE
BANKRUPTCY CODE**

The Bank of New York Mellon Trust Company, N.A., as Trustee for GMACM Home Equity Loan Trust 2006-HE3, its successors and/or assignees (hereinafter "the movant"), by its attorneys, Gray & Associates, L.L.P., moves the court pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure and Rule 60 of the Federal Rules of Civil Procedure for an order vacating the order dated February 10, 2015 granting the debtors' motion to sell the property pursuant to Section 363 of the bankruptcy code and, in support of its motion, alleges as follows:

Drafted by:

Christopher C. Drout
Gray & Associates, L.L.P.
16345 W. Glendale Drive
New Berlin, WI 53151
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1. That the movant holds promissory note and a properly-perfected second mortgage encumbering real estate owned by the debtors and located at 120 E. Clyde Street, Holmen, WI 54636.

2. That the real property encumbered by the mortgage is the debtor's principal residence.

3. That the movant is the holder of a claim secured only by a security interest in real property that is the debtor's principal residence.

4. That the movant obtained an order for relief from the automatic stay and abandonment on December 23, 2014.

5. That the debtors requested and obtained a payoff letter dated February 9, 2015 indicating the amount due on the loan as of February 25, 2015 was \$32,297.13.

6. That the debtors attempted to tender \$11,213.59 as an attempt to pay the loan in full.

7. That the Seventh Circuit stated, "as a general rule, the bankruptcy court should not order property sold 'free and clear of' liens unless the court is satisfied that the sale proceeds will fully compensate secured lienholders and produce some equity for the benefit of the bankrupt's estate." In re Riverside Inv. Partnership, 674 F.2d 634, 640 (7th Cir. 1982).

8. That the debtors have failed to pay the full amount due on movant's properly perfected second mortgage as required under Section 363(f).

WHEREFORE, the movant moves the court for an order vacating the order dated February 10, 2015 granting the debtors' motion to sell the property pursuant to Section 363 of the Bankruptcy Code, awarding the movant its fees and costs associated with this motion and such and further relief as the court may deem to be just and equitable.

Dated this 24th day of March, 2015.

GRAY & ASSOCIATES, L.L.P.
Attorneys for Movant

By:____/S/_____
Christopher C. Drout
State Bar No. 1049882

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AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
)ss
WAUKESHA COUNTY)

Christopher C. Drout, being first duly sworn on oath deposes and says that he is an employee of the firm of **GRAY & ASSOCIATES, LLP**, attorneys for movant, that on the 24th day of March 2015, he electronically filed the annexed Notice of Motion and Motion to Vacate Order and that copies of these documents were mailed, properly enclosed in a postage paid envelope, or served electronically if the party accepts electronic service, to the following:

Western District U.S. Trustee
780 Regent Street, Suite 304
Madison, WI 53715

Galen W. Pittman
300 North 2nd Street, Suite 210, P.O. Box 668
La Crosse, WI 54602-0668

Mark Mathias
Chapter 7 Trustee
920 S. Farwell St.
Eau Claire, WI 54701

Dated this 24th day of March, 2015.

_____/S/_____
Christopher C. Drout
State Bar No. 1049882

Subscribed and sworn to before me
Dated this 24th day of March, 2015.

_____/S/_____
Tammy L. Harrison, Notary Public
State of Wisconsin
My commission expires: 03/8/2019.

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